



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/998,461	11/29/2001	Jan Kall	NC16296	5674
------------	------------	----------	---------	------

43829	7590	09/27/2005
-------	------	------------

ROBERT M BAUER, ESQ.  
LACKENBACH SIEGEL, LLP  
1 CHASE ROAD  
SCARSDALE, NY 10583

EXAMINER

MEHRA, INDER P

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ck

## Office Action Summary

Application No.

09/998,461

Applicant(s)

KALL ET AL.

Examiner

Inder P. Mehra

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/28/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/23/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This office action is in response to application dated: 11/29/01

#### *Specification*

2. The disclosure is objected to because of the following informalities:

Refer to page line 5. "Radio network port 14" is not illustrated in fig. 1.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 3-9, 13-17, and 19-20 recite "multiple-cast". This limitation is not supported by specification.

Appropriate correction be taken to cancel it.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2666

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 2 recites the limitation " broadcast or multicast data"" in line 4. This is indefinite in its interpretation. It could be interpreted as either "broadcast" or "multicast", which are different in meaning.

Claim 2 recites the limitation " both the first mobile user and the at least the second mobile user endpoint;" in lines 5 and 9. There is confusing. This implies to be "at least two user endpoints- first and second". Please clarify. Similar problem occurs at line 13 of claim 2.

Claim 2 recites the limitation "multiple-cast" in line 12. This is confusing. Does it mean "sending data multiple times to the same recipients". In what way, is it different from "multi-cast", which means that the data is sent to multiple recipients? Similar problem occurs at line 14 of claim 2 and other claims 1, 3-9, 13-17, and 19-20.

Appropriate correction be taken to cancel it.

8. Claims 1-14 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the following limitations

- "the broadcast" in line 5.
- "the first and at least second mobile stations" in line 13;

Art Unit: 2666

- “the multiple cat data”, in line 14;
- “the mobile user endpoint” in line 9 and “the first and at least second mobile stations”, in line 13. Are these same equipments? Drawings, fig. 1, shows “UE”.

Which terms is correct?

There is no antecedent basis for this limitation in the claim.

9. Claim 8 recites “the data source”, in line 3. There is no antecedent basis. Similar problem exists in claim 20.

**Note: there are similar problems of antecedent basis in the rest of the claims, which need appropriate correction.**

### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1, 15, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by

**Stine** (US Patent Application no. 2003/0033394).

For claims 1, 15, 19 and 20, Stine discloses:

- “In a packet-based multi-user radio communication system in which a data source originates multiple cast data, an improvement of apparatus

for a radio access network (RAN) part of the radio communication system for selectably facilitating communication of the broadcast or multicast data to a first mobile user endpoint and at least a second mobile user endpoint, said apparatus comprising, refer to paragraph 0002;

- an identifier positioned at the radio access network (SCR Protocol 1, refer to paragraph 0135), said identifier for identifying when communication of the multiple cast data is to be effectuated upon a common channel (single channel), common to both the first mobile user endpoint and the at least the second mobile user endpoint, (**refer to paragraphs, 0005, 0142, 0202 and 0232, and refer to “Each node that receives a request notes the address of the node (identifier) from which it first receives the request and either further broadcasts the request or responds with a unicast reply to the predecessor identifying that it can provide a path to the destination”, refer to paragraph 0036);**

and

- a point to multi-point bearer implementer coupled to said identifier, said point to multi-point bearer implementer for implementing a multiple-cast of the multiple-cast data upon the common channel to the first and at least second mobile stations, respectively, when said identifier

- identifies that the communication of the multiple-cast data is to be effectuated upon the common channel, (refer to paragraph 0036).
- sending the packet-formatted data as a unicast to each of the at least the first mobile user endpoints of the set of mobile user endpoints if the set is identified during said operation of identifying to include fewer than a selected number of mobile user endpoints,( refer to “Each node that receives a request notes the address of the node (identifier) from which it first receives the request and either further broadcasts the request or responds with a unicast reply to the predecessor identifying that it can provide a path to the destination”, refer to paragraph 0036).

*Allowable Subject Matter*

**REASONS FOR ALLOWANCE**

12. Claims 2-14, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
13. Claims 2-14, and 16-18, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 2666

***Prior Art of Record***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Vialen et al** (US Patent Application No. 2005/0186959) discloses signaling methods in cellular telecommunication systems, such as UMTS.

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Inder Pal Mehra*

Inder P Mehra  
Examiner  
Art Unit 2666

9/22/05

*DM*  
DANGLON  
PRIMARY EXAMINER